

Whiteness (and other ness(es)) as Property Revisited: A Response to Derrick Bell and a Vision for Multi-Cultural Coalitions and Legalisms

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INTRODUCTION

As a law student with training in Marxist and neo-Marxist, feminist, power conflict, redistributive-focused sociology, I am interested in voices and contexts. I am intrigued by the voices which carry the debates within the law, as well as within the law school context. I am concerned by the stories which are privileged and validated and those which are left unheard and on the periphery. This study of voice, however, is not solely an academic or a scholarly gesture; it is a personal exploration as well.¹ I am regularly amazed at how I feel my voice has been disempowered, unheard and undervalued while simultaneously remaining very privileged in the daily life I lead, including within the law school context.²

I grew up as the offspring of what I call the “new middle-class.” My parents’ labor is, like mine, that of the mind, as they are both professors while my grandparents’ labor was distinctly of the hand. One of my grandfathers spent his life in the steel mills while the other worked in a shoe factory. My formative values and the voices that I privilege were certainly shaped by these dynamics, my parents adjusting to their new class status but constantly reminding me (and themselves) not to forget our roots, and moreover, chiding me

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¹ As CHARLES R. LAWRENCE III & MARI J. MATSUDA write: “Who we are and our genealogies are relevant to what we believe and to how the reader will respond to us.” *WE WON’T GO BACK: MAKING THE CASE FOR AFFIRMATIVE ACTION*, xix (1997). See also Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411 (1989).

² See LANI GUINIER ET AL., *BECOMING GENTLEMEN: WOMEN, LAW SCHOOL, AND INSTITUTIONAL CHANGE* (1997); LOUISE HARMON & DEBORAH W. POST, *CULTIVATING INTELLIGENCE: POWER, LAW, AND THE POLITICS OF TEACHING* (1996).

whenever I failed to recognize the challenges faced by others similarly, or more often not so similarly, situated as we were. I grew up with the stories of how my mother, now a feminist teacher and scholar, was a young, loud voice against segregation in her Southern river town, and of how my father spent years as a VISTA volunteer living in Spanish Harlem before he went to graduate school. These voices of challenge and struggle shape mine, but so too do privilege and opportunity shape my voice.³

Although I grew up in a multi-racial, lower-middle class neighborhood (a conscious decision by my parents to individually lash back at increasingly segregated neighborhoods and have their children raised in a diverse community), I had much better chances of leaving, a privilege not accorded many of my neighbors or the children with whom I walked to school. My privilege let me find a scholarly voice in one of the most elite and expensive liberal arts colleges in the country, though thankfully also an institution that might also claim title to most truly “liberal.” Four years of willful and gleeful indoctrination in socialism, queer studies, Critical Race Theory and Critical Race Feminism offered me a valuable set of tools and vocabularies to challenge the world in which we live.⁴ I thought I would regularly be able to utilize these tools and theories in the law school context, challenging the Master’s voice in many of the languages of the Master.

Instead of being engaged in the dialogue I envisioned where I could utilize my education and life experience to challenge many of the value systems embedded within the law, I simply felt bludgeoned

³ Whiteness, as well as other dominant power “nesses” within American society, “impl[y] living a life that is intimately connected—in identifiable ways—to the international dynamics that are so radically altering the economic, political, and cultural relations in many nations throughout the world. It is not necessarily based on a conscious choice. Rather, it is deeply cemented into our commonplace understandings of daily life. . . . Whiteness, then, is a metaphor for privilege.” Michael W. Apple, *Whiteness, Education, and Cheap French Fries*, in OFF WHITE 125, 121-128 (Michelle Fine, Lois Weis, et al. eds., 1997).

⁴ I credit Vassar College Professors Luke C. Harris, Pinar Batur and Eileen Leonard for helping me obtain the tools to write and fight. If I capture a fraction of the power with which Professor Harris writes in his most influential, *My Two Mothers, America and the Million Man March*, in BLACK MEN ON RACE, GENDER, AND SEXUALITY: A CRITICAL READER 54-67 (Devon W. Carbado ed., 1999), then I have succeeded. See also Joe Feagin, Hernan Vera and Pinar Batur, WHITE RACISM: THE BASICS (2000).

by my first year legal education. I like to refer to my first year of law school as “Capitalism 101” as American capitalism was stressed as a value-free necessity rather than as the conscious choice, imbued with subordination, discrimination and alienation, that I had examined as an undergraduate. The class system and inequitable material conditions of our society were simply taken for granted rather than viewed as points of departure for scholarly debate. Yes, issues like race occasionally appeared on the table but rarely did they leave the sterile, not fully contextualized domain of Brown⁵ and its aftermath⁶ whereas topics like radical feminist critiques of the law and queer theory, which had seemed canonical only a year before, were invisible. I was beaten to the point where I was both satisfied and pleasantly surprised when the voices I heard in class, whether from students or professors, echoed L.B.J.-era liberalism. I believe that those who disseminate this law school pedagogy perceive themselves as neutral or objective, believing that their white, capitalist, heterosexual, male norms are devoid of political content.⁷ The law school experience as presented by my professors and peers has largely failed, in Mari Matsuda’s

⁵ See *Brown v. Board of Education*, 347 U.S. 493 (1954).

⁶ See generally, *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971); *Washington v. Davis*, 426 U.S. 229 (1976); *Regents of the University of California v. Bakke*, 438 U.S. 265 (1978); *Hopwood v. Texas*, 78 F.3d 932 (5th Cir. 1996). See also David Benjamin Oppenheimer, *Martin Luther King, Walker v. City of Birmingham, and the Letter from Birmingham Jail*, 26 U.C. DAVIS L. REV. 791 (1993) (discussing the inability of the major constitutional law casebooks to properly contextualize *Walker v. Birmingham*, 388 U.S. 307 (1967), where the Supreme Court ruled in favor of Bull Connor and upheld convictions of civil rights leaders while utterly ignoring the gravity and human dimensions of the civil rights struggle and the racist courts).

⁷ See generally Richard Delgado, *The Imperial Scholar: Reflections on a Review of Civil Rights Literature*, 132 U. PA. L. REV. 561 (1984) (suggesting that white scholars are often prevented from mounting an effective struggle against racism and moreover lack the tools to recognize the persistence of inequality in general); Frances Lee Ansley, *Race and the Core Curriculum in Legal Education*, 79 CALIF. L. REV. 1512 (1991); Harlon L. Dalton, *The Clouded Prism*, 22 HARVARD C.R.-C.L. L. REV. 435 (1987). See also Daniel A. Farber & Suzanna Sherry, *Is the Radical Critique of Merit Anti-Semitic?*, 83 CALIF. L. REV. 853 (1995) (arguing that the critiques of merit and white norms which could threaten the dominant law school culture as well as social norms are inherently anti-Semitic).

terms, to recognize that law as taught is “a system that makes sense only from a particular viewpoint,” rather they believe it is *the* viewpoint.⁸

In certain ways I understand this value-free façade. For this is professional school, an endeavor designed to help students succeed within (not outside) the active canon. Indeed, during my second-year of law school I learned in on-campus recruiting what stories “should” be told, and what parts of my résumé (which is to say which parts of *myself*) “needed” disguising and manipulating as not to offend those in power. I also realize that the voices I respect most within the law, those which are salient because they describe the contexts in which I live and how the law affects real people, are not valued. Through its silence, the law — both in its “mainstream” scholarship and in the briefs submitted to courts and the opinions the nation’s courts publish — reject the bodies of knowledge, such as Critical Race Theory and radical feminism, which I hold dear. Larry Cata Backer has exhaustively studied how the courts have received the work of the post-modern academic legal community, and concludes that the “outsider” scholarship of women and people of color⁹ has largely been either shunned or demonized in the courts.¹⁰ He concludes:

What stands out most, however, at both the state and federal level, is the silence. Courts, even hostile courts, rarely take the time to cite, much less ridicule, demean or demonize the work of these scholars. To that extent, the ideas propounded by those scholars, for the most

⁸ MARI J. MATSUDA, *When the First Quail Calls: Multiple Consciousness as Jurisprudential Method*, in *WHERE IS YOUR BODY?: AND OTHER ESSAYS ON RACE GENDER AND THE LAW* 7, 3-12 (1996).

⁹ I use the term “people of color” throughout this piece, realizing that it is sloppy, overbroad and insufficient to describe the experiences within or between groups. Accordingly, I do not intend to essentialize such experiences but I believe that in this context the term can be empowering. The phrase “people of color” has some potential to bring together different voices to advance a particular cause or set of causes and to stress that the historically disadvantaged continue to face exclusion.

¹⁰ See Larry Cata Backer, *Forging Our Identity: Transformative Resistance in the Areas of Work, Class, and the Law: Measuring the Penetration of Outsider Scholarship into the Courts: Indifference, Hostility, Engagement*, 33 U.C. DAVIS L. REV. 1173, 1179 (2000) (arguing that outsider scholarship and its desire for profound social change continue to be shunned and demonized by the courts and traditional legal scholars).

part, have not yet failed to become a well-established part of the dialog of formal law making in America.¹¹

Given that the dominant American legal paradigm ignores bodies of work including Critical Race Theory, Critical Legal Theory, Radical Feminism, Multiculturalism¹² and “controversial” scholars¹³ who graduated from and teach at the “best,” most elite law schools in the country, it should come as little surprise that my — largely unpublished, unacclaimed, unlaurelled, untenured — voice goes unheard. Yet, I proudly note that I typed the first draft of this essay for a course at my Ivy League law school that encouraged my voice, urged me to convey my opinions and my viewpoints, and allowed them to move beyond the silence.¹⁴ I embrace the opportunity to break through the shroud of silence that covers many of my days within the walls of the law school; as the Irish cultural theorist Luke Gibbons has so aptly noted about silence in a far graver context: “[T]o be forgotten and written out of history is to die again. . . . [T]he past is not over until its story has been told.”¹⁵ I take this chance to shout aloud about my vision, seize the moment where my voice will again find itself heard within my minute law school community, and

¹¹ *Id.* at 1182.

¹² *See id.* at 1184.

¹³ Backer’s study focused on the courts’ citation patterns of the following scholars, all intellectual heavy-weights within their realm of legal academia, Harlon Dalton, Ruthann Robeson, Jerome Culp, Gerald Lopez, Stanley Fish, Richard Delgado, Catherine MacKinnon, Patricia Williams, Lani Guinier, Derrick Bell, Charles Lawrence III, Duncan Kennedy, Mari Matsuda, Kimberlé Crenshaw, Gary Peller, Neil Gotanda, and Janet Halley. *See id.* at 1192-1207.

¹⁴ Although in this context, I write of silence as disempowering for a progressive white person, I acknowledge that in other contexts silence would allow me to exercise white privilege. *See generally*, Stephanie M. Wildman & Adrienne D. Davis, *Language and Silence: Making Systems of Privilege Visible*, in *CRITICAL RACE THEORY: THE CUTTING EDGE* 660, 657-663 (Richard Delgado and Jean Stefancic eds., 2d ed. 2000).

¹⁵ Luke Gibbons, *Doing Justice to the Past*, in *IRISH HUNGER* 269, 258-270 (Tom Hayden ed., 1997).

eventually in legal academia, the legal profession, and multi-dimensional, intersectional¹⁶ politics.

I believe that I have a distinct role to play within this community as well as within the profession I am preparing to enter. For I will argue that as an anti-racist, feminist, heterosexual, progressive male,¹⁷ my voice is needed in the search for multi-cultural coalitions and within a professional school and professional dynamic which need enlightening.¹⁸ I realize, however, that within these intellectual and activist pursuits, I face a dual struggle. First, as has often been the case in law school, my voice will often be ignored, criticized and challenged for its betrayal of the norms of white privilege, capitalism, heterosexism¹⁹ and patriarchy. Second, even as

¹⁶ For the quintessential discussions of the importance of intersectionality in analyzing problems of race, class, gender and sexual orientation, *see generally*, Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory, and Antiracist Policies*, 1989 U. CHI. LEGAL F. 139 (1989); Kimberlé Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241 (1991); Kimberlé Crenshaw, *Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law*, 101 HARV. L. REV. 1331 (1991).

¹⁷ The focus of my piece is racism, specifically that related to whiteness as property, however, I do not intend to detract from other privileged systems of operation which continue to oppress groups and individuals. In executing such complex identity work, I do not intend to imply that I think these categories are static or that oppression and discrimination are monolithic experiences regardless of category. It is my intent to write with Trina Grillo's and Stephanie Wildman's anti-essentialist warning in mind: "[C]omparing sexism to racism perpetuates patterns of racial domination by marginalizing and obscuring the different roles that race plays in the lives of people of color and of whites. The comparison minimizes the impact of racism, rendering it an insignificant phenomenon—one of a laundry list of –isms or oppressions that society must suffer." Trina Grillo & Stephanie M. Wildman, *Obscuring the Importance of Race: The Implication of Making Comparisons Between Racism and Sexism (or Other –Isms, in CRITICAL RACE THEORY: THE CUTTING EDGE*, *supra* note 14, 650, 648-656.

¹⁸ As bell hooks writes, "It is our collective responsibility as people of color and as white people who are committed to ending white supremacy to help one another. It is our collective responsibility to educate for critical consciousness." KILLING RACE: ENDING RACISM 194 (1995).

¹⁹ *See* Darren Lenard Hutchinson, *Ignoring the Sexualization of Race: Heteronormativity, Critical Race Theory and Anti-Racist Politics*, 47 BUFFALO L. REV. 1 (1999) (for insight into the ways in which even theory with the best intentions often ignores the sexualization of race and serves to further subordinate and form hierarchies based on race and sexual orientation).

my voice is ignored in some circles, I must also come to terms with the privileged position it occupies nonetheless. Indeed, I have access — through a richly textured liberal arts education and the doors that an Ivy League legal education opens, benefits I have received, in large part, because the color of my skin, my background and my gender made them easier to obtain — to a variety of forums and opportunities denied many others within this society. My goal is, then, to use my privileged position within society to challenge that very position, the set of norms and structures which have made my status more obtainable.²⁰ Yet, I wish to avoid the “double binds of whiteness” as best I can, resisting dynamics which essentialize race and gender as systems of stable meaning and attempting to be an ally to causes I believe in while not falling prey to the paternalism which almost inherently attaches itself to being a “white ally.”²¹

To pursue this project requires honesty with myself and a forthright assessment of the contexts from which I came and which continue to inform my vision. As such, I believe that writing which is not disconnected from my life history and interactions is my most

²⁰ I readily acknowledge that the sacrifices I make in pursuing these goals are in some ways insubstantial. I continue to benefit from my background, gender and color of my skin. Even as I try to uncover my “unconscious racism” I continue to benefit from its societal advantages without so intending. See Charles Lawrence III, *The Id, the Ego, and Equal Protection: Reckoning with Unconscious Racism*, 39 STAN. L. REV. 317 (1987) (arguing that Americans are all racists as a result of our shared experiences and adoption of discrimination and racism). Nonetheless, I wish to confront this project, “attempt[ing] to dismantle Whiteness as it currently exists. . . . Whites must consciously repudiate Whiteness as it is currently constituted in the systems of meaning which are races.” Ian F. Haney Lopez, *White by Law*, in CRITICAL RACE THEORY: THE CUTTING EDGE, *supra* note 14, 632, 626-34.

²¹ See generally, Elizabeth Ellsworth, *Double Binds of Whiteness*, in OFF WHITE, *supra* note 3, 259-69. My thinking owes much to Ellsworth’s thorough, open-ended and anti-essentialist analysis. I try to keep in mind her cautionary conclusions as a guide for my thought and writing and a shield against the dangers of the normalization of my whiteness and other “ness(es)” and “isms” into dichotomized, insoluble frameworks: “The racialized frames that structure academic ways of knowing and of interrelating, such as defining, speaking from the position of the one who knows, having the last word — must be responded to not as frames, but as questions.” *Id.* at 268.

valuable tool; I pursue a scholarship and oppositional politics informed by who I am which requires that it is based in story-telling. In this essay, I set forth a number of personal vignettes that I believe are illustrative of the challenges I face as a progressive, white thinker and lawyer. I intend that these stories display the ambivalence I have about a system which simultaneously accepts and adopts my voice while ignoring its content. I hope the stories also convey the importance of context and place, that the privilege I am often accorded is socially constructed and not ordained. Moving from the stories, I intend to examine my role within a system where “whiteness as property”²² and white privilege²³ continue to be the norms and to take issue with Professor Derrick Bell’s recent articulation of his views on the role of whiteness²⁴ within emancipatory politics, racial and otherwise.

SHOTS IN THE DARK: DISPLACEMENT, FALLING OUT OF CONTEXT,
MY VOICE (UNKNOWNLY) SHAPING AND ESTABLISHING THE
DOMINANT STORY.

When I was sixteen, a high school junior, several friends and I went to a party hosted by a friend of ours. In many respects, the party differed very little from the routine high school fare in my small, working-class, post-industrial town, Jackson, Michigan.²⁵ The host’s parents had left for the weekend and in their absence, the home was crammed with young bodies, many imbibing alcohol and smoking marijuana. I tend to think that this picture of my town is no different than many across the Midwest and the country in general; regardless, it certainly was the norm in Jackson. Yet, the party instantly stood out from those I attended during my high school years in that we, the

²² Cheryl I. Harris, *Whiteness as Property*, 106 HARV. L. REV. 1707 (1993). My thinking in this essay is indebted to Harris’ brilliant articulation of the property interest in my color (as well as gender and sexual orientation) which I necessarily carry with me every day.

²³ See Peggy McIntosh, *White Privilege: Unpacking the Invisible Knapsack*, 49 INDEPENDENT SCHOOL 31-36 (1990).

²⁴ See Derrick Bell, *Wanted: A White Leader Able to Free Whites of Racism*, 33 U.C. DAVIS L. REV. 527 (2000).

²⁵ In 1994, the year of the incident I describe, MONEY magazine ranked Jackson, Michigan the worst place to live in America, three places behind the more famed city of Flint. See Marguerite T. Smith & Sheryl Nance-Nash, *The Best Places to Live in America*, MONEY, Sept. 1, 1994, at 1994 WL 11047318.

group of seven friends who arrived together, were white, while the host and the eighty to one hundred other guests that populated the residence were Black.²⁶

Like most cities in the nation's rust belt, my hometown was rocked by segregation at all levels — residential, occupational, educational,²⁷ and social. On this night, however, a mutual friend²⁸ had invited us to his parents' home, and we gladly attended. Not surprisingly, the party unfolded like any other, except for once within the social spaces of my high school interaction, I was in the minority. There was no palpable tension; conversations and interactions flowed

²⁶ Throughout this essay, I capitalize the term "Black" to connote a specific cultural group (while leaving "white" in lowercase), though I am cognizant that the experiences of Blacks within this country are greatly diverging, marked by their interrelations to gender, sexual orientation, national origin, class and knowledge. See Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, *supra* note 16, at 1241, n 5 (1991) ("I use 'Black' and 'African American' interchangeably throughout this article. I capitalize 'Black' because 'Blacks,' like Asians, Latinos, and other 'minorities,' constitute a specific cultural group and, as such, require denotation as a proper noun.' By the same token, I do not capitalize "white," which is not a proper noun, since whites do not constitute a specific cultural group. For the same reason, I do not capitalize 'women of color.'" (citations omitted)). But see, Barbara J. Flagg, "Was Blind But Now I See": *White Race Consciousness and the Requirement of Discriminatory Intent*, 91 MICH. L. REV. 953, 954-55, n 7 (1993) (choosing not to capitalize black or white to encourage whites to break free from the tendency to associate race with people of color and to develop a positive racial awareness of whiteness).

²⁷ Indeed there was only one public high school; however, the faces I came across in my "college bound" classes were almost exclusively white with smatterings of Blacks, Latino/as and Asians. Furthermore my school district's faculty diversity was compromised by *Wygant v. Jackson Bd. of Ed.*, 476 U.S. 267 (1986), in which the Supreme Court struck down a collective bargaining agreement which offered Blacks modest protection against seniority based layoffs. Such grandfather clauses, though facially neutral, have a profound disparate impact on communities of color. See generally Thomas Ross, *Innocence and Affirmative Action*, 43 VAND. L. REV. 297 (1990) (discussing *Wygant* and other affirmative action programs in which whites mistakenly attempt to cast themselves as victims).

²⁸ Again, someone whom I never had the opportunity to be in class with, but had gotten to know through the more typical form of inter-racial interaction at my high school — athletics and running track.

as readily between people I'd never met or seen as they did with my white peers, it was indeed a standard high school night — small talk and gossip, nothing outside of my frame of reference, just a difference of color.

Yet, as I stood in the kitchen saying good-bye to old friends and new acquaintances, the party and the sum of my life experiences were dramatically altered. Above the din of hip-hop and party chatter rang out a series of shots. Though I'd never heard or seen a gun fired, the sound was unmistakable. Adrenaline charged and a seemingly timeless series of events followed: I jumped onto the floor, found myself smothered by panicked fleeing party-goers, unable to go out the door, I dove headfirst down the basement stairs instead, found myself covered in blood as shots continued upstairs and I was suddenly in the company of two men with guns below, a harried search for an escape ensued, a friend and I broke through a window and climbed out to the safety of our cars as the night was, in a sense, over.

That one person was murdered and a friend of mine hit by an errant bullet assured that the night will never truly be “over” for me, but the reactions at school from peers, teachers and administrators as well as the outcry in the community allowed the night to live on in that more immediate time frame as well. When we, the white students who had witnessed the shooting, returned to school, we were criticized by our peers, teachers and administrators. “How could *you* have been *there*?” they asked. A not so subtle reference to the continued societal belief in a pathology of Black violence²⁹ and the unuttered notion that somehow we deserved the violence that we witnessed because we had removed ourselves from the segregated world of high school socialization and chose to attend a racially mixed party. In a sense, we got what we asked for because we did not possess white fear,³⁰ and were not threatened by the atmosphere of a racially diverse party.

²⁹ See Grace Frank, *FSU forum discusses professor's racial views*, TAMPA TRIB., April 7, 1999, at Florida/Metro 2 (discussing Florida State University psychology Professor Glayde Whitney's writings on Black genetic inferiority and predisposition to violence); GEORGE P. FLETCHER, *A CRIME OF SELF-DEFENSE: BERNHARD GOETZ AND THE LAW ON TRIAL* (1988).

³⁰ See Richard Delgado, *Rodrigo's Eighth Chronicle: Black Crime, White Fears - On The Social Construction of Threat*, 80 VA. L. REV. 503 (1994); Jody D. Armour, *Race 'Ipsa Loquitur': Of Reasonable Racists, Intelligent Bayesians, and Involuntary Negrophobes*, 46 STAN. L. REV. 781 (1994); FRANTZ FANON, *BLACK SKIN, WHITE MASKS* (1967).

Furthermore, there was an implication that by attending an event in which my white peers and superiors believed violence was inherently present, we had needlessly ceded some of our white privilege. Their question, "Why were you there?" really meant, with so many white (read safe) social opportunities, why was it necessary to desegregate yourselves socially, what did you have to gain?

I felt and still believe that those who judged and analyzed my presence at the party have little understanding of the full scope of the events that took place that evening. First, the implication was that these violent occurrences only happen at *those* parties and in *that* community. Such a belief first obscures the tragic nature of the violence and the loss of innocence all of us who were in attendance, Black or white,³¹ experienced. Additionally such a belief allows the white community to disassociate itself from its close ties to handgun violence, particularly with the rise of school shootings at predominantly white, upper-class institutions³² as well as the numerous accepted forms of violence that routinely take place within white social groups nationwide.³³ Indeed, in my hometown, violence

³¹ While the incidences of black-on-black violence and rates of black victimization are admittedly higher than in white communities, *see* MANNING MARABLE, *Violence, Resistance, and Black Empowerment*, 124-133 in *SPEAKING TRUTH TO POWER* 127-28, 124-33 (1996), I would venture that the overwhelming majority of people at the party had never witnessed such an event.

³² After the infamous "Trenchcoat Mafia" shooting of April 1999 in wealthy Littleton, Colorado, a host of angry white, middle/upper-middle class, suburban teens followed suit with increasing prevalence. Perhaps most strikingly such shootings have caused the suburban parents to realize that the initial refrain "this doesn't happen in places like this" has become outdated and unrealistic. *See generally* Howard Fineman, *Under Fire*, *NEWSWEEK*, May 31, 1999, at 24; Claudia Kalb, et al., *Schools on the Alert*, *Newsweek*, Aug. 23, 1999, at 42.

³³ *See generally* Robert D. McFadden, *Hazing Scandal at High School Horrifies Town in Connecticut*, *N.Y. TIMES*, February 25, 2000, at B1 (discussing high school wrestling team's hazing rituals which included a 15-year-old boy having been hog-tied, slammed into a wall, locked up for a half-hour several times in a gymnasium locker and held down once while teammates forced a plastic knife into his rectum); Jodi S. Cohen, *U-M Fraternity Disbands After Hazing: Alpha Epsilon Pi Pledge was Shot in Groin with BB Gun*, *DET. NEWS*, February 1, 2000, at D1 (discussing how fraternity hazing ritual led to the shooting of a University of Michigan pledge);

had long been a routine part of the middle-class white social interaction with which I was familiar. From elementary school through high school, there were a slew of fights every day — in the cafeteria, at gym, in the halls between classes. My peers thought fighting was the natural solution to any problem. High school dating almost inevitably meant that there would be a fight between the new beau and the jilted ex-boyfriend. However, the violent dynamics did not begin with our teenage years nor did it leave out parental involvement. I recall one parent whose son had been bested in a fight traveling to his child's private, Catholic elementary school the next day to pin down the winning child and allowing his two children to pummel the boy for retribution. After a "minors level" (ages eight - ten) Little League game, a coach, whose son had been hurt when he was struck by a pitch, threatened the pitcher with a shotgun he drew from his truck. Yet my community was rarely troubled by these events, they were seemingly viewed as natural elements of maleness and whiteness. After all, the Little League coach/shotgun aggressor merely received a year's suspension from the league and no charges were filed.

While a certain degree of "safe," normalized violence had always been tolerated, after the shooting, my school administration and community wanted to create a polarized vision of the party — a story of opposites: honor roll, white middle/upper-middle professional class meets the drop-outs, the uneducated. How could that have been fun?³⁴ As if *our* high school parties had been about sitting in a circle reading Proust and philosophizing about the ills of the world. What

Player, Dad Sentenced for Sharp Helmet Buckle, ORLANDO SENTINEL, December 24, 1996, at A8 (discussing how a 48-year-old parent of a high school football player had sharpened his son's helmet buckle to help him retaliate for having been roughed up in an earlier game); *Attorney General Backs Vermont Hazing Charge*, N.Y. TIMES, February 4, 2000, at D2 (examining the University of Vermont men's hockey team's use of hazing, including forcing freshmen players to drink alcohol and perform degrading acts, which led to an NCAA suspension and prosecution); *Athletes Abusing Athletes*, <http://espn.go.com/otl/hazing/monday.html>, April 14, 2001.

³⁴ Although I seek to break down the black/white binary that hinders the study of the complexity of race in this country, this oppositional framework of absolutes seems most native to the Black/white paradigm. See Crenshaw, *Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law*, *supra* note 15, at 1373 (discussing historical oppositional dualities between whites and Blacks, such as industrious/lazy, responsible/shiftless, knowledgeable/ignorant, etc.).

would be most shocking perhaps to those who criticized our behavior is how little the party differed from those I generally attended. Yes, the people were Black, the house was in the supposed 'hood rather than the vaunted 'burbs (the pathology of both can be debated in another forum), but the music and the activities had little variance — kids hanging out, talking about sports, gossiping about girls and guys and drinking.

Although the community certainly had some degree of sympathy for me because witnessing a shooting is a psychologically wrenching event, the predominant view in the months that followed remained that we, seven white students, were pariahs. The question was repeated: How could *you* have been *there*? However, four months later when the shooter's trial for homicide arose, the terrain shifted dramatically.

In awaiting and then testifying at the murder trial, I personally experienced and fully realized, for the first time, the power that my *white* voice held within the legal sphere, the privilege that my story was accorded. Before the trial, teachers, peers and figures in the community continued to cast me as out of place in attending the party — too Black, too near the “other” and not white enough. However, as trial began, suddenly the perspectives changed: I was now portrayed as a victim who *needed* vindication for the purity of other whites who could have fallen prey to such a violent act, and my white voice was the tonic the law required. In early July, when I first arrived at the courthouse and entered the witness lounge, I knew that I would see the six white friends with whom I attended the party. I also thought that I would be reintroduced to many of the hundred-plus Black individuals who were at the party that night. Yet, as eyewitness after eyewitness was called, I realized my group of seven was at the forefront and there was an utter dearth of Black voices. When I was called to the stand, my story was — or should have been in a legal sense — largely insignificant. I saw the accused murderer at the party, but I could not place him as the shooter. Rather I could only place him in a room from which the shots were fired. However, as he fired from that room he was surrounded by some twenty-five – forty Black individuals —

many of whom obviously saw his face and the event itself in much greater detail than I — only one of whom took the stand.³⁵

The mantra — How could *you* have been *there*? — was jettisoned in this new legal environment, and in the prosecutor's consciousness was replaced by "How did *you* envision the evening? How did it make you feel? Describe your terror and panic as you heard the shots." I know now my role. I was the white victim. A boyish face, college bound, the child of professors, headed for a year as an exchange student in Europe (the prosecutor had me tell the jury all these details), someone with whom the largely white jury could identify,³⁶ projecting themselves and their children onto me, recoiling in horror at the way in which my sacred space had been broken by the stereotypical young Black male perpetrator. This horror in and of itself is not wrong, for I was victimized as were my white friends, but so too were the myriad of Blacks who came to the party just like us, seeking no trouble, whose voices the law did not wish to hear.³⁷ Thus, the trial replicated a centuries old practice of discounting the testimony of Black witnesses, while the non-white individuals are no longer

³⁵ I find the language from *Jordan v. Smith*, 14 Ohio 199, at 4-5 (1846), particularly striking: "No matter how pure the character, yet, if the color is not right, the man can not testify. The truth shall not be received from a black man, to settle a controversy where a white man is a party. Let a man be Christian or infidel; let him be Turk, Jew, or Mahometan; let him be of good character or bad; even let him be sunk to the lowest depths of degradation; he may be a witness in our courts if he is not black."

³⁶ For examination of how minorities are under-represented on juries, see David Kairys et al., *Jury Representativeness: A Mandate for Multiple Source Lists*, 65 CAL. L. REV. 776 (1977); Nancy J. King & G. Thomas Munsterman, *Stratified Juror Selection: Cross-section by Design*, 79 JUDICATURE 273, 273 (1996) ("[The] inability to secure racial and ethnic diversity on lists of qualified jurors remains the most intractable problem in jury administration today.").

³⁷ I am cognizant of, though an outsider to, the intra-neighborhood pressures of testifying and the ways in which community justice operates. However, I do not believe the prosecutor was simply unable to have Blacks testify; rather my voice served a conscious need of his to lend a certain legitimacy and narrative of victimization to the largely white jury.

formally forbidden by the law to testify,³⁸ the de facto systems of legal norms continue to preclude their viability.³⁹

Essentially my testimony and the white norm it represented formed the background which the law takes to be “value free” and natural, and the content of that testimony was to be interpreted as a greater truth, a more valued system of meaning — in sum, the violence I experienced was interpreted as being more grievous because my whiteness and class were supposed to act as shields against such transgressions. Cheryl Harris writes: “In protecting settled expectations based on white privilege, American law has recognized a property interest in whiteness that, although unacknowledged, now forms the background against which legal disputes are framed, argued, and adjudicated.”⁴⁰ The legal dispute, a homicide case, though an instance of Black-on-Black violence which claimed a young Black man’s life but incidentally hit a white bystander, was framed as our dispute — the innocent white faces who had been violated by this shooter. Here, our whiteness and the privilege we had in living in relatively safe communities was at work, as this event represented a threat to our white entitlement. Cheryl Harris writes that, like with traditional forms of property, “the law has accorded ‘holders’ of whiteness...the rights of possession, use and disposition...the right to

³⁸ See Adrienne D. Davis, *Identity Notes Part One: Playing in the Light*, 45 AM. U.L. REV. 695, 709-15 (1996) (discussing California’s nineteenth century exclusion of non-white witness testimony); A. LEON HIGGINBOTHAM, JR., IN THE MATTER OF COLOR 176, 253-54 (1978) (discussing how in colonial South Carolina, conviction of a white servant who killed a slave depended on corroboration by two white witnesses, making conviction extremely unlikely.).

³⁹ See Sheri Lynn Johnson, *The Color of Truth: Race and the Assessment of Credibility*, 1 MICH. J. RACE & L. 261 (1996) (discussing how modern courts continue to weight the credibility of Black and white witnesses differently, accepting the testimony of white witnesses whilst ignoring their vested interests to lie.); Joseph W. Rand, *The Demeanor Gap: Race, Lie Detection, and the Jury*, 33 CONN. L. REV. 1 (2000) (arguing that white jurors, even those well-intended and free of racial animus, will be unable to dependably judge the demeanor of a witness of a different race because they are unable to accurately decipher the cues that the witness uses to communicate sincerity).

⁴⁰ Cheryl Harris, *Whiteness as Property*, *supra* note 22, at 1713-14.

use and enjoyment, and the right to exclude others.”⁴¹ It is the exclusion that is most prominent. Whiteness, like other dominant positions of identity which the law privileges (voices rooted in maleness, heterosexism, patriarchy, and the upper class), becomes inalienable property—an objective social fact, where the flip side of the privilege is inherently the subordination of people of color, women, and other groups.⁴²

Harris argues the law has been key in affirming the importance of whiteness as property, because law has functioned “to ‘parcel out social standing according to race’ and to facilitate systematic discrimination by articulating ‘seemingly precise definitions of racial group membership.’”⁴³ Law took the ideology embedded in race and formalized it into rigid definitions where whiteness was equated with privilege. “It convert[ed an] abstract concept into an entity.”⁴⁴ At the time of trial, I recall being aware of and finding it strange that the case seemed to depend almost entirely on the testimony of the whites who were a tiny minority at the party, an aspect of the dynamic which I now find most threatening. At the time, my surprise was outgrowth of what Barbara Flagg calls the “transparency of whiteness” — “the tendency of whites not to think about whiteness, or about norms, behaviors, or perspectives that are white-specific.”⁴⁵ As George Lipsitz writes, “white power secures its dominance by not seeming to be anything in particular.”⁴⁶ And by not “seeming to be anything in particular,” whiteness and other forms of dominant voice reinforce their own embeddedness and power, causing us to believe that they are immutable, set in stone rather than social constructions.

THE TEMPORALITY OF PRIVILEGE: DERRY ENCOUNTERED

During the summer of 1998, I lived in Derry, Northern Ireland where I was working as a research fellow at a non-sectarian think tank.

⁴¹ *Id.* at 1731.

⁴² Although Harris’ article largely fails to break free from what I see as a limited Black-white paradigm, I find its theoretical import clearly applicable to other races as well as to other dynamics of inequality and subordination which the law (lawyers, judges, juries and scholars alike) sanctions through its valuation of voice.

⁴³ *Id.* at 1737 (citations omitted).

⁴⁴ *Id.* at 1741 (citations and internal quotation marks omitted).

⁴⁵ Flagg, *supra* note 26, at 957.

⁴⁶ GEORGE LIPSITZ, *THE POSSESSIVE INVESTMENT IN WHITENESS: HOW WHITE PEOPLE PROFIT FROM IDENTITY POLITICS*, 1 (1998).

I went to the north of Ireland, the land of my ancestral home, to complete research on Irish identity for my senior thesis and to work on the institute's projects on ethnic warfare and conflict resolution worldwide. One day, I offered to assist with a friend's project on creating a "virtual Derry," my role was simply to shoot video of Derry's city walls⁴⁷ which had been constructed between 1614-19 so that he could compose a real-time computer model. Although the walls are charged with historical significance in the struggle between the city's Catholics and Protestants,⁴⁸ the project I embarked on was entirely apolitical and aesthetic.

I shot continuous video footage of the contours of the walls, but ceased filming along the several military installations upon the walls which the government does not permit to be photographed. At one point, I stopped to change the camera's battery and as I was doing so an officer of the Royal Ulster Constabulary (RUC) approached me and asked what I was doing. I described my friend's project, with its focus on the stones and shapes of the walls, and presented the officer

⁴⁷ See <http://derry.local.ie/content/35277.shtml>.

⁴⁸ In 1689, Catholic forces of King James II sieged Derry unsuccessfully for 105 days as William of Orange's garrison utilized the walls to stand the charge. See generally, PAUL HIPPSLEY, *DERRY'S WALLS* (1994). Now, some 300 years later, Protestants in Derry and across the North continue to celebrate the victory of King James. In 1969, the Protestant marchers taunted Catholics as rioting broke out, culminating in the Battle of the Bogside in Derry and then spreading across Northern Ireland. The history of Derry has been charged since, as events like Bloody Sunday (January 30, 1972) where 21 soldiers fired 108 rounds into a crowd of unarmed Catholic demonstrators, killing 13. See generally, EAMONN MCCANN & MAUREEN SHIELS, *BLOODY SUNDAY IN DERRY: WHAT REALLY HAPPENED* (1992); PETER PRINGLE & PHILIP JACOBSON, *THOSE ARE REAL BULLETS, AREN'T THEY: BLOODY SUNDAY, DERRY 30 JANUARY 1972* (2000); DON MULLAN, *EYEWITNESS BLOODY SUNDAY* (1997). The marches continue to sporadically erupt into violence and the police's response tends to be particularly violent, drawing the repeated rebuke of Human Rights Watch and other organizations. See Human Rights Watch, *Monitoring the Northern Ireland Marching Season 1999*, <http://www.hrw.org/campaigns/nireland99/back.htm>; Lawyers Committee For Human Rights, *Human Rights in Northern Ireland*, <http://www.lchr.org/n.ireland/peace.htm>.

with my passport and a letter stating my affiliation to the university and research centre and expressing my good, non-political intentions.

The officer said to me, "Mr. Joyce, that's all well and good, but please stop the camera or it comes with me."

I replied cautiously, knowing that I was within the law, but that in the North delicacy of language is necessary and misperception dangerous, "I'm sorry sir, but I'm only recording the public [non-military] sections of the walls and am turning off the camera at the installations."

To which he pointedly remarked, "Eamon, are you familiar with the Emergency Provisions Act or the Prevention of Terrorism Act? If you don't turn off the camera, you'll come with me as well, understand?"

His statement was a threat, not at all veiled but explicit, as he alone held the power in this interaction. His threat was one I understood fully as an Irish-American with Republican⁴⁹ political leanings and one with which I had to comply. He was able to threaten me because though I am a United States passport holder whose family left Ireland almost 150 years ago, my name signifies "Irish Catholic", "Gaelic," "Republican," and even "IRA" and inherently, through its reassertion of my ancestors' once native tongue, connotes opposition to British rule.

Although I was in Derry at a time of great peace and hope as a broad cease fire was in place in the wake of the newly minted Northern Ireland Peace Agreement of 1998, his threat resonated with me because I was aware of my continued disempowerment within that context where Irish Catholic, particularly Gaelic, remains silenced and subordinate. The Northern Ireland Emergency Provisions Act (EPA)⁵⁰ allows for the arrest and detention for up to four hours of any individual suspected of committing or believed about to commit any offense. Under the EPA, individuals suspected of terrorist offenses are tried in "Diplock courts" without a jury.⁵¹ Furthermore, the

⁴⁹ Irish Republican, meaning I support the reunification of the 26 southern counties with the six gerrymandered northern counties into the proper Irish Republic.

⁵⁰ The EPA has its roots in the 1922-23 Civil Authorities (Special Powers) Act (Northern Ireland) which after the civil rights uprisings and conflict from 1969-71 took on permanent status as the EPA. See e.g., ANTHONY JENNINGS, *JUSTICE UNDER FIRE: THE ABUSE OF CIVIL LIBERTIES IN NORTHERN IRELAND*, 1-23 (1988).

⁵¹ The Diplock courts have been roundly criticized by scholars and human rights groups for ignoring internationally recognized standards for due process. See Steven

Prevention of Terrorism Act allows the police to arrest without a warrant any person *believed* to be involved in terrorism, and to detain and interrogate those persons for up to 48 hours without any legal representation or judicial review; thereafter, many such detainees can be held for seven days without charge in Northern Ireland. Simply put, I was faced with a system of justice that had no concern for my nationality, gender, class or higher education. In that moment the privileges which I hold as a form of property in the United States were lost; instead, only one characteristic mattered — my Irishness⁵² — and it alone was enough to strip me of my choice and dignity.

Greer & Anthony White, *A Return to Trial by Jury*, in *JUSTICE UNDER Fire*, *supra* note 50, at 47-72; *Report of the U.N. Special Rapporteur on the Independence of Judges and Lawyers Regarding the United Kingdom and Northern Ireland* (1998); Human Rights Watch, *JUSTICE FOR ALL? An Analysis of the Human Rights Provisions of the 1998 Northern Ireland Peace Agreement*, Vol. 10, No. 3 (D) (1998).

⁵² I am aware that some may criticize me by saying that the officer's decision to harass me was not racial, religious or ethnic but was a prank of some sort or a general random desire to badger an outsider. However, I fail to find such criticism salient given the history of the RUC and their particularly fierce opposition to Gaelic and other signifiers of a proud Irish identity. My name, Eamon (or the even more Gaelic Éamon or Éamonn) means "happy protection" or "the protector." The name carries a nationalist connotation as often those who name their children "Eamon" are inspired by the first Irish Taoiseach Eamon De Valera who was also a freedom fighter as Commandant in the Irish National Uprising of 1916. Additionally, my surname "Joyce" (or "Sheoigheach" in Gaelic — though must Sheoigheachs became assimilated Joyces under British imperialist rule) is particularly ethnic Irish in that the Joyce clan hails from some of the least assimilated, Gaelic-speaking regions of Ireland — counties Galway and Mayo (despite the most famous Joyce, James, being a Dubliner). For discussion of the RUC's racism and essentialist focus on the ethnic Irish see, *Twelve Year Old Arrested for Speaking Irish* <http://www.web.apc.org/~ara/documents/news/jun27/irish.html> (discussing how an RUC officer in Derry arrested a child for giving his name in Irish although the boy, "Gearoid O Dochartaigh" was a native Irish speaker and had never been called by another name); GRAHAM ELLISON, *YOUTH, POLICING AND VICTIMISATION IN NORTHERN IRELAND REFORMING THE ROYAL ULSTER CONSTABULARY* (2000) (noting the RUC is plagued by institutionalized racism and finding that the majority of Catholics in Northern Ireland had been harassed by the police force); ANDREW HAMILTON, LINDA MOORE & TIM TRIMBLE, *POLICING A DIVIDED SOCIETY: ISSUES*

I convey this story, not to appeal for sympathy or compassion; rather, I use it to display the temporality of privilege. I believe my story helps illustrate the social constructions of power, while allowing me to come to terms with feelings of degradation and fear that I have never personally experienced in the United States, though many groups and individuals in this country must regularly confront such ignominies. In some perverse sense, before I was disempowered on that rainy northern Irish afternoon, I could not directly relate to the visceral emotion of being judged and subordinated based on largely immutable characteristics.⁵³ I do not mean to imply that I think all persons must face such events to gain credibility within the discourse of equality, but I do maintain that, for me, the experience still resonates and brings me in touch with the physical reality of inequality in a way that was previously impossible.⁵⁴

While I am reluctant to make personal experience with the dynamic of disempowerment an essential element in forming the raised consciousness that I believe an emancipatory ethic based on disarming privilege requires, I must admit that I have a great deal of skepticism about the possibility of traditional, unrooted intellectuals being the torchbearers of such a radical perspective. In this vein, I am greatly influenced by the Italian Marxist Antonio Gramsci's writings

AND PERCEPTIONS IN NORTHERN IRELAND (1995) (recommending among other measures: Catholic recruitment to the police service, demilitarization of policing, removal of much of the RUC's current imperial, Protestant, sectarian symbolism, as well as the formation of a completely independent investigative agency to research complaints).

⁵³ I do not mean to imply that race, gender and class are simply immutable, textureless characteristics, rather I argue that the assimilationist color-blind, gender-blind society which operates from a position of power particularly within the law views them as such. I, however, believe it is necessary for the law and other systems of social control to begin to view such categories from a perspective of "culture race" as set forth by Neil Gotanda, where cultural diversity as well as the inter-locking natures of oppression are acknowledged in richer terms. See generally Neil Gotanda, *A Critique of "Our Constitution is Color-Blind"*, 44 STAN. L. REV. 1 (1991).

⁵⁴ I do not think I'm unique in that an individual encounter with structural or embedded discrimination sets off an enhanced feeling of knowledge and recognition of unconscious racism and society-wide discrimination (as opposed to that perpetrated by individual actors) which otherwise the person in the privileged role would be less likely to see or acknowledge. See Sharon E. Rush, *Sharing Space: Why Racial Goodwill Isn't Enough*, 32 CONN. L. REV. 1 (2000) (discussing how the author, a white female law professor, recognizes the breadth of unconscious racism after witnessing a series of incidents involving her Black adopted daughter).

on intellectuals⁵⁵ and find his passages on “organic intellectuals” pertinent to the coalition politics I envision.⁵⁶ For Gramsci, an organic intellectual is one of the people — operating relatively free of the traditional hierarchical constraints of intellectuals. The organic intellectual emerges from a particular social group, sharing many of that group's basic conceptions (though grounds for contestation

⁵⁵ See Antonio Gramsci, *The Intellectuals*, in READINGS IN MARXIST SOCIOLOGY 168-177 (Tom Bottomore and Patrick Goode eds., 1983).

⁵⁶ I also confess that I was somewhat surprised to find that very few radical legal theorists continue to utilize Gramsci's theoretical frameworks in formalizing their praxis. I can only guess that Gramsci's overwhelmingly Marxist outlook is viewed by some as cumbersome and not easily adaptable to multi-cultural politics. However, I believe the scholars who have reapplied Gramsci have been effective in connecting the organic intellectual to the praxis needed in today's pursuit of equality. See generally, Mari Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 HARV. C.R.-C.L. L. REV. 323, 324 (1987) (arguing against abstract philosophy, saying: “[W]e must look to what Gramsci called ‘organic intellectuals,’ grassroots philosophers who are uniquely able to relate theory to the concrete experience of oppression”); CORNEL WEST, PROPHECY OF DELIVERANCE, 121-22 (1982) (discussing the application of organic intellectuals to Black culture); Margaret E. Montoya, *Academic Mestizaje: Re/Producing Clinical Teaching and Re/Framing Wills as Latina Praxis*, 2 HARV. LATINO L. REV. 349 (1997) (using Gramsci's vision to focus on self-examination of intellectuals who come from marginalized communities in forming pragmatic Lat/Crit theory); Enrique Carraso, *Intellectuals, Awkwardness, and Activism: Towards Social Justice Via Progressive Instability*, 2 HARV. LATINO L. REV. 317 (1997) (examining how it is essential to pair theory and criticism to “ignite a progressive consciousness between ourselves and ‘organic intellectuals’ in our communities”); Anthony E. Cook, *Beyond Critical Legal Studies: The Reconstructive Theology of Dr. Martin Luther King, Jr.*, 103 HARV. L. REV. 985 (1990) (discussing Dr. King as an example of a modern organic intellectual). Richard Delgado and Gerald Torres also make cursory references to Gramsci and organic intellectuals without delving into or applying the theory. See Richard Delgado, *Pep Talks for the Poor: A Reply and Remonstrance on the Evils of Scapegoating*, 71 B.U.L. REV. 525 (1991); Richard Delgado, *Affirmative Action as a Majoritarian Device: Or, Do you Really Want to be a Role Model?*, 89 MICH. L. REV. 1222 (1991); Gerald Torres, *Environmental Burdens and Democratic Justice*, 21 FORDHAM URB. L.J. 431 (1994); Gerald Torres, *Critical Race Theory: The Decline of the Universalist Ideal and the Hope of Plural Justice -- Some Observations and Questions of an Emerging Phenomenon*, 75 MINN. L. REV. 993 (1991).

remain), and acts as a thinker and organizer within that group to lead a movement with a political, emancipatory vision.⁵⁷ Once the organic intellectual establishes himself or herself within the group, he or she can spread the group's vision to others, thereby moving from a position of resistance to one of revolutionary action. As such, the traditional intellectual, sitting atop the hierarchy with no connection to underprivileged disempowered communities — no real rootedness — cannot be a leader within the dynamic I envision. Perhaps the traditional intellectual (envision the thinker trapped in the ivory tower, or alternately the typical law school professor and dean as described by Delgado throughout *Rodrigo's Chronicles*, detached from the people and the true issues) will begin to embrace a progressive vision once the organic intellectual and his or her community have mobilized and disseminated their message through the organic intellectual meeting the traditional intellectual in discourse. Indeed, I argue that many whites who view themselves as liberal suffer from a lack of a truly progressive vision because they have not been exposed to the issues facing disempowered communities. However, through exposure to organic, rooted intellectuals, I see the possibility for bridges and multi-cultural, intersectional coalition building.⁵⁸

Yet, the modern organic intellectual undeniably faces a great set of challenges in staying true to and returning to a community in which one is rooted even as he or she has obtained new sources of knowledge and power. As Margaret E. Montoya remarks, "I think there may be something important for those of us who come from poor and marginalized communities. Are we organic intellectuals? Can we be academics and remain connected to our communities?"⁵⁹ I believe the answer to each of her questions is "Yes," but the connectedness and cognizance of one's position of intellectual flux requires listening to the voices of the community of which he or she is a part. Moreover,

⁵⁷ See Gramsci, *supra* note 55, at 176-177.

⁵⁸ Which is certainly not to say that the organic intellectual will be perfect, encompassing every nuance of a community's problems and interests. Rather, the organic intellectual is promising because he or she has the unique position of engaging in discourse with his or her community as well as with traditional intellectuals who will in all likelihood continue to hold political power. As such, organic intellectuals have the opportunity to make their communities' voices heard by greater society, thus eventually pushing toward a greater consciousness and specifically an acknowledgement (and eventual revision and release) of the workings of privilege.

⁵⁹ Montoya, *supra* note 56, at 367.

it requires the organic intellectual to face the challenge of connections to communities who are unwilling to engage in broader dialogue or communities which go even further and cast the intellectual out of the fold or brand him or her a “sell-out.”

MOVING FROM DISEMPOWERMENT TO
MULTI-CULTURAL, OPPOSITIONAL THEORY

I use the Ireland vignette as a constant reminder to myself about the ways in which I continue to be privileged and can return to my privileged space. In this country, because of the way I dress and appear, unlike Patricia Williams, I will likely never encounter a shopkeeper who keeps me from his or her store as I attempt to go Christmas shopping.⁶⁰ Here, I can also do well and not be called a credit to my race⁶¹ and as a male I will generally “feel welcomed and ‘normal’ in the usual walks of public life institutional and social.”⁶² Furthermore, I will also never have to explain my sexual orientation or fear being disowned because of the sexual choices I make, nor will I face the greater stigma of having my “tongue tied” by the interlocking nature of racism, classism and homophobia.⁶³ No, here in this space and on this page, I am a privileged intellectual, but I believe with that privilege comes a responsibility.

⁶⁰ See PATRICIA WILLIAMS, *The Death of the Profane (a commentary on the genre of legal writing)*, in THE ALCHEMY OF RACE AND RIGHTS 40-51 (1991) (eloquently describing Williams’ rage and shame when a Benetton employee refused to buzz her into the store on account of her “round brown face.”)

⁶¹ See Peggy McIntosh, *White Privilege and Male Privilege*, in CRITICAL WHITE STUDIES: LOOKING BEHIND THE MIRROR 291-99 (Richard Delgado & Jean Stefancic eds., 1997) (presenting a long list of such privileges that whites and males hold within American society).

⁶² *Id.*

⁶³ See Darren Lenard Hutchinson, *Out Yet Unseen: A Racial Critique of Gay and Lesbian Legal Theory and Political Discourse*, 29 CONN. L. REV. 561 (1997) (discussing Marlon Riggs’ poem and film *Tongues Untied* and arguing such interlocking biases affect judicial decisionmaking in cases involving questions of gay and lesbian equality).

I believe that I have a responsibility to “out” these supposedly hidden systems of dominance and to confront the ways in which I’ve benefited from the unspoken systems of privilege so as to begin the process of dismantling these systems. Peggy McIntosh writes: “To redesign social systems we need first to acknowledge their colossal unseen dimensions. The silences and denials surrounding privilege are the key political tool here. They keep the thinking about equality or equity incomplete, protecting unearned advantage and conferred dominance by making these taboo subjects.”⁶⁴ And so I begin the task of using my admittedly privileged voice to attack the systems that have accorded my voice this Ivy League space. bell hooks writes:

While it is important that individuals work to transform their consciousness, striving to be anti-racist, it is important to remember that the struggle to end white supremacy is a struggle to change a system, a structure. . . . For our efforts to end white supremacy to be truly effective, individual struggle to change consciousness must be fundamentally linked to collective effort to transform those structures that reinforce and perpetuate white supremacy.⁶⁵

Some describe this responsibility as becoming a “race traitor.”⁶⁶ On one hand, I understand the value in what Gayatri Spivak calls the “strategic essentialism”⁶⁷ of such racial coding. While strategic essentialism posits that groups have “essential attributes,” it newly empowers the group by allowing the group to define itself rather than allowing outsiders to define the group as a means of oppression. Moreover, strategic essentialism gathers strength in that the essential attributes are admittedly socially constructed. The group acknowledges that the attributes are not inherent or natural, yet they are invoked when it is politically useful to do so. However, I also feel some revulsion at the term “race traitor” because although I express a similar intent to fight against the norms of whiteness, maleness, heterosexism, classism, and the myth of meritocracy, I am fearful that

⁶⁴ McIntosh, *supra* note 61, at 298.

⁶⁵ HOOKS, *supra* note 18, at 195.

⁶⁶ See Noel Ignatiev, *How to Be a Race Traitor: Six Ways to Fight Being White*, in CRITICAL WHITE STUDIES, *supra* note 61, at 613.

⁶⁷ See GAYATRI SPIVAK, *Subaltern Studies: Deconstructing Historiography*, in SELECTED SUBALTERN STUDIES (Gayatri Spivak & Ranajit Guha eds., 1988).

such essentialism will forever link whiteness with malignance.⁶⁸ In the emancipatory ethic I seek, I hope that someday whiteness is freed of its solely negative connotations. As Martha Mahoney writes:

Because whiteness is a transparent and dominant norm, part of the transformative project necessarily involves exposing white privilege to white people. . . . At other times, a preference for whiteness reflects a preference for the qualities that have been attached to whiteness. . . . Transformative work on whiteness therefore requires attacking its power as a dominant norm, while seeking points of potential for *change* in the social construction of whiteness.⁶⁹

⁶⁸ As I have expressed above, I remain deeply skeptical about the role of whites in multi-cultural politics and realize that great progress must occur before whiteness is ever linked with a renunciation of privilege, yet such a project remains my long term goal. Currently, I believe the interrogation and dismantling of whiteness must push on; however, at some stage, I think it will be necessary to break from “what whiteness means ideologically,” as Becky Thompson and White Women Challenging Racism remark, “for me to buy into thinking there’s something wrong with me because I am white-skinned is wrong. If I perpetuate the system, *then* I am a piece of the negative history.” Becky Thompson and White Women Challenging Racism, *Home/Work: Antiracism Activism and the Meaning of Whiteness*, in OFF WHITE, *supra* note 3, 357-58, 354-66.

⁶⁹ Martha R. Mahoney, *Shaping American Communities: Segregation, Housing & the Urban Poor: Segregation, Whiteness, and Transformation*, 143 U. PA. L. REV. 1659, 1676-77 (1995) (emphasis added).

In my scholarship and in my work as a lawyer,⁷⁰ my greatest challenges will be finding ways to establish alliances with people of color,⁷¹ women and those discriminated against because of their sexual orientation that neither minimize their reasons for distrust nor require me to de-race, de-gender, or de-sexually orient myself. Thus, I believe that my privileged voice has an essential role to play within liberation politics and within radical legal reform. I need to constantly remind myself that even as I walk through the ivory towers — and ivy halls — each day, I must remain organically connected to the community and social setting from which I came (a white male, heterosexual, feminist, anti-racist progressive among many doubters). Recently, Derrick Bell has addressed the role of whites in liberation politics and the continuing pursuit of progressive civil rights law in his essay, *Wanted: A White Leader Able to Free Whites of Racism*.⁷²

Bell states that he has not forgotten the power of courts as vehicle for social reform, but warns those seeking litigation as their tool for social reform that litigation achieves its greatest success when political policy makers and the public support the positions advocated in test cases.⁷³ He notes that conservatives have scored major victories

⁷⁰ As a lawyer, I will eventually have the opportunity to utilize my voice in the projects I take on, the clients I represent as well as in the voices I use in the courtroom. In doing so my desire is to remain faithful to a form of radical lawyering as set forth by Julie Su, one that employs voices inside and outside the legal system, combining lawyering and activism for maximum efficacy. See Julie Su, *Making the Invisible Visible: The Garment Industry's Dirty Laundry*, 1 J. GENDER, RACE & JUSTICE 405, 405 (1998). In the meantime, vast sums of undergraduate and law school debt necessitate that I work in a corporate law firm setting for a period of time. Yet, I believe that even in this framework I can remain true to my responsibilities. First, I have an obligation to take on as much pro bono work as possible, sacrificing (in some perverse sense) my climb up the profitability and corporate ladder for the opportunity to utilize my voice and push my vision for greater equality. Additionally, with my superiors in the office, I can follow my mission by not hiding my politics and my true voice, pushing for what I believe in on committees on hiring, pro bono matters, etc.; again trading the promises of financial advancement which come with remaining a silent, complacent, privileged person for the opportunity, however small, to change the corporate culture.

⁷¹ See Thompson, *supra* note 68, at 358, with whom I credit the idea of “challenge” as they discuss it in the racial sphere but do not explicitly embrace the intersectionality I pursue.

⁷² Bell, *supra* note 24.

⁷³ *Id.* at 529. See also, DERRICK BELL, RACE, RACISM AND AMERICAN LAW (1980) (arguing that within American constitutional law, Blacks and other minorities are more apt to obtain relief when such relief also serves the interests of, largely white,

in the affirmative action arena while winning the war of public opinion. To combat this, and other tides of retrenchment, Bell states, “[M]y title does not promise new legal strategies but instead calls for new leadership in the fight against racism — to be more specific, new white leadership.”⁷⁴

While I agree with many of Bell’s insights as to the problems of racial pathologies facing American whites and even his suggestions on the personal work that he believes whites must do, I ultimately find his conclusions short-sighted and harmful to real progressive movements within and outside of law. In Gramscian terms, Bell searches for a traditional white intellectual when an organic white intellectual is needed for any tangible social progress. Bell is right to remind us that in this era of conservative jurisprudence the effectiveness of equality-seeking litigation has been hindered.⁷⁵ His desire for charismatic leadership to sway the public and policymakers so that litigation can gain maximum efficacy is indeed a necessary task.⁷⁶

However, to ensure that litigation may be aligned with progressive politics, Bell calls for:

[N]ew leadership in the fight against racism — to be more specific, new white leadership. . . . The leaders I seek and that this country needs must be well-known, able to be heard and with the power or charisma to be taken seriously. Let me say quickly, emphatically, and somewhat sadly, that the leadership we need cannot be filled by a black person.⁷⁷

policymakers); Derrick Bell, *Brown v. Board of Education and the Interest Convergence Dilemma*, 93 HARV. L. REV. 518 (1980) (noting that *Brown* provided credibility to America’s struggle against communist countries in the war of equality rhetoric).

⁷⁴ Bell, *supra* note 24, at 531.

⁷⁵ *Id.* at 528-29.

⁷⁶ *Id.* at 529.

⁷⁷ *Id.* at 531.

Bell claims that Jesse Jackson's runs for the presidency evidenced the fact that on racial issues, "any black's message will be dismissed at best as special pleading and at worst as racial condemnation."⁷⁸ Bell then notes that he once thought President Clinton might have been the necessary white leader, but with that failure, a new white leader is needed to deliver a three-point message about race: (1) race in America is white problem rather than a Black one, (2) racism may never be overcome and could play a permanent role in American social structures, and (3) even if eradicating racism is an impossible goal, the fight for tolerance and equality carries an inherent value.⁷⁹ I support the content of Bell's three-point message and even agree with the utility of white agency in delivering such a message. However, Bell's search for such a Messianic white leader strikes me as colonialist, missionary-like and antithetical to the hope for broad-based, intersectional coalitions whose promise lies in their ability to empower groups and voices who have been silenced within the discourse.⁸⁰

Which is not to say that I, too, do not share Bell's frustration with the abdication of white, male Democratic politics with regard to the needs of communities of color, women, homosexuals, and organized labor. As I've tried to articulate, I believe that the privileged have an outstanding moral obligation to use their positions of power to be advocates for equality. Yet being a white, privileged voice myself, I want to carry my responsibility to talk about these matters, but I do not want to do so as a lone voice, the voice of authority that society has enabled white, heterosexual males like me to be for so long. Rather, I hope that my voice strikes a chord not only with those of my background, but with those who look very different and are situated in very different contexts than I am, for this is the promise of intersectional politics.

⁷⁸ *Id.* at 532.

⁷⁹ *Id.*

⁸⁰ I do acknowledge that Bell's statement strikes me as particularly unusual and may even be a tongue-in-cheek roust given many of his past writings on race, many of which argue that racism is an intractable societal problem. See generally, Derrick Bell, *The Racism is Permanent Thesis: Courageous Revelation or Unconscious Denial of Racial Genocide*, 22 CAP. U. L. REV. 571, 573 (1993) ("Racism is an integral, permanent, and indestructible component of the society."); DERRICK BELL, *FACES AT THE BOTTOM OF THE WELL: THE PERMANENCE OF RACISM* (1992); Derrick Bell, *Racial Realism*, 24 CONN. L. REV. 363, 376 (1992); DERRICK BELL, *AND WE ARE NOT SAVED* (1987)

In dichotomizing the white and Black perspectives, without even considering the voices of Latina/os, Asians and other racial minorities let alone tackling other categories of oppression, Bell's argument smacks of missionary zeal and is overstated, implicitly affirming a continued legacy of privilege which the white, empowered voice carries. The white voice obviously continues to carry privilege, but in searching for his white leader from upon high rather than from within a rooted community, Bell undermines many of the possibilities for coalition. In sum, I have great doubts that the white, Clinton-like, disconnected white voice that Bell seeks has the background and history at his or her disposal to espouse the message that Bell wants this emancipatory white intellectual to convey. Bell correctly notes that "[t]he ideology of whiteness continues to oppress whites as well as blacks. Whites employ whiteness to make whites settle for despair in politics and anguish in the daily grind of life."⁸¹ However, I see my role in the escape not as the white missionary or colonizer, bringing truth to the illiterate masses; instead — in Bell's articulation — I see my voice as improperly set apart and improperly privileged.⁸² My goal then is to cast a critical eye to my position so that I may return to my community, rediscover my rootedness in a multiplicity of perspectives I have occupied during my life in order to re-align myself with others to discuss race, class, sexual orientation and gender, and to begin the arduous process of disassembling many of the very systems of power which got me here. However, on an individual level but also within a greater social dynamic, I must face the question: What is to be done about whiteness and these other "nesses"?

⁸¹ Bell, *supra* note 24, at 535.

⁸² McIntosh distinguishes between earned strength and power conferred systematically. She writes, "Power from unearned privilege can look like strength when it is, in fact, privilege to escape or dominate. . . . [Some], like the privilege not to listen to less powerful people distort the humanity of the holders as well as the ignored groups." Peggy McIntosh, *White Privilege and Male Privilege: A Personal Account of Coming to See Correspondences Through Work in Women's Studies*, 30, 22-33 in *POWER, PRIVILEGE AND LAW: A CIVIL RIGHTS READER* (Leslie Bender & Daan Braveman eds., 1995). As such, I envision a society where my voice earns strength through its message rather than through my unearned status.

Like Becky Thompson and White Women Challenging Racism, I believe that “[w]e [whites as well as, in my case, heterosexual, middle class men] must claim a reality (that we have white skin [etc.]) and deal with unearned privileges as we show that the hierarchy is, itself, an invention.”⁸³ Bell’s undying emphasis on white leadership, in some ways, obfuscates the social construction of that hierarchy — he reifies the differences between the power relationships and us and is reluctant to see where the white intellectual must be an organic product of his or her social position. For this white intellectual to succeed, he or she must in Gramscian terms “emerge and be formed by the lived experiences of the working class, combining understanding and passion, utopianism and pragmatism, theory and practice, the political and the social.”⁸⁴ I intend to let go of what unearned privileges I can, attempting to use those I inherently retain, as I try to do now within the law school setting, during my professional career to challenge the hierarchy and to argue for inclusiveness legally and politically. Martha Mahoney argues that such a challenge is a key initial step in challenging whiteness and its dominance on the whole. She remarks, “My goal is to identify those points about whiteness that are most susceptible to change — especially those points that reveal potential for undermining the construction of privilege and subordination and for uniting whites, along with people of color, in opposition to privilege.”⁸⁵ Such an endeavor means making decisions about which unearned benefits I will decline; in effect, it entails rejecting the fruits of my privileged position by taking on a voice which does not carry the traditional canon, disrupting the normal functioning of the largely white, male institutions which desire me as a member. In doing so, I suspect I will give up much of my ability to rise easily through such institutions.

Peggy McIntosh argues that I do not have much to lose, she writes: “Our male colleagues do not have a great deal to lose in supporting Women’s Studies, but they do not have a great deal to lose if they oppose it either. They simply have the power to decide whether to commit themselves to more equitable distributions of power.”⁸⁶ In certain respects, I agree that adopting a voice not

⁸³ Thompson, *supra* note 68, at 357.

⁸⁴ Montoya, *supra* note 56, at 367-68.

⁸⁵ Martha R. Mahoney, *The Social Construction of Whiteness*, in CRITICAL WHITE STUDIES, *supra* note 61, 330, 330-333.

⁸⁶ McIntosh, *supra* note 61, at 297.

typically coded as “white,” “male” or “straight” does not free me of the property benefits which society still wishes to unfairly award. Yet, in other respects, I disagree strongly as the privileged have much to lose by letting go. Acknowledging that the meritocracy is a falsehood, that one is not deserving of the status and other material conditions, and indeed letting go of that wealth and status, is not easy. For if it was, I assume more people would have let go sooner, moving us closer to the egalitarian society I envision. Looking beyond our perspectives and attempting to yield the spaces which our voices occupy to others is not easy. I espouse a Gramscian-styled intellectualism, to engage in a legal discourse which succeeds on the grounds Mari Matsuda describes: “[W]hen notions of right and wrong, justice and injustice, are examined not from an abstract position but from the position of groups who have suffered through history, moral relativism recedes and identifiable normative priorities emerge.”⁸⁷ Noel Ignatiev speaks about letting go of the privilege:

For the white race to be effective [in maintaining its privilege and subordinating others], it must be unanimous, or nearly so. The reason is that if the cops and the courts and so forth couldn’t be sure that every person who looked white was loyal to the system, then what would be the point of extending privileges to whites? . . . Our strategy seeks to bring together a determined minority, willing to defy white rules so flagrantly they make it impossible to pretend that all those who look white are loyal to the system of racial oppression.⁸⁸

In my work and life, I aspire to flagrantly defy the rules of privilege⁸⁹ that I have been accorded, but realize that devoting my

⁸⁷ Matsuda, *supra* note 56, at 325.

⁸⁸ An interview with Noel Ignatiev of *Race Traitor* magazine, *Treason to Whiteness is Loyalty to Humanity*, in CRITICAL WHITE STUDIES, *supra* note 61, 611.

⁸⁹ In some ways this defiance simply entails recognizing my race and the set of assumptions and values it carries, exposing whiteness as non-value-free. For as

life's work to such a mission will not be easy. Edward Said writes of being an oppositional voice: "The hardest aspect of being an intellectual is to represent what you profess through your work and interventions, without hardening into an institution or a kind of automaton acting at the behest of a system or method."⁹⁰ In this next phase of my life, as I prepare to enter employment as a litigator within a large corporate culture, I take Said's advice and say: I will work for this firm, but I will not become the institution.⁹¹ These sacrifices may indeed be small, to most observers I will remain a white male who has succeeded in corporate culture, leading a comfortable life with a handsome wage (albeit dented by an amount of loans that neither I nor my family could have imagined as I embarked on this path of higher and legal education years ago). I accept those criticisms, in no way do I hope to attain martyrdom. However, I will try to remain on the edge, challenging the system that put me here and looking at every opportunity to open the system's doors to others not so privileged. In my practice of law itself, on an instrumental level, my goal is to hear the narratives of others,⁹² for part of whiteness and its power is the ability to combine my narrative, opinion and voice with another that needs to be heard — fighting for power through cooperation and community. In relating to clients, this means listening and learning from them to empower my lawyering and the case on the whole. Anthony Alfieri remarks that in the pursuit of transformative legalism, "[s]ituated outside lawyer-told client story is an alternative client story composed of multiple narratives, each speaking in a different voice of

Grillo and Wildman remark: "This privilege to *ignore* their race gives whites a societal advantage distinct from any received from the existence of discriminatory racism." GRILLO & WILDMAN, *supra* note 17, at 649.

⁹⁰ EDWARD SAID, REPRESENTATIONS OF THE INTELLECTUAL, 121 (1994).

⁹¹ Indeed, during my summer at the firm while I found my work intellectually stimulating and my pro bono work genuinely impacting social change and the protection of individual rights, I found that work alone could not satisfy me completely. As such, I left work early one or two nights per week to tutor at the Maya Angelou Public Charter School in Washington, DC — an endeavor that brought me closer to my community and the people whom social change most needs to reach, children. The school itself is a remarkable venture, I will continue working there during my time in Washington and urge others to do the same or contribute otherwise. For information on the school see www.seeforever.org.

⁹² Mari Matsuda writes, "We can choose to know the lives of others by reading, studying, listening, and venturing into different places. For lawyers, our pro bono work may be the most effective means of acquiring a broader consciousness of oppression." *Supra* note 8, at 8.

the client. . . . When the client's voices are silenced and her narratives are displaced by the lawyer's narratives, client integrity is tarnished and client story is lost."⁹³

Yet, I must act to find solutions that not only operate on an individual level but must also seek those which operate in greater society. For Manning Marable, the intellectual's role is to be an opposing force, fighting against that which is "value free" and unjust. He believes the intellectual must function at all levels, both writing and demonstrating, both working inside and outside the system, opposing its power base and structures unconditionally. "All art and aesthetics, scientific inquiry, and social studies are directly or indirectly linked to . . . the existing set of power relationships which dictates the policies of the modern state."⁹⁴ My goal, like Marable's, is to create a unity between various groups, but I must confess that the task is more arduous than scholars, theorists and activists care to admit and I remain skeptical about the ease with which coalitions can be formed because of the multiple dynamics such a progressive move entails.⁹⁵ Regardless, the move must begin with an examination of self and the individual dynamics of whiteness. Marable, too, sees such examination of whiteness as a necessary first step:

To move into the future will require that we bury the racial barriers of the past, for good. The *essential* point of departure is the Reconstruction of the idea of "whiteness," the ideology of white power privilege, and elitism which remains heavily embedded within the

⁹³ Anthony V. Alfieri, *Reconstructive Poverty Law Practice: Learning Lessons of Client Narrative*, in CRITICAL RACE THEORY: THE CUTTING EDGE, *supra* note 14, 602, 600-606.

⁹⁴ Manning Marable, *Speaking Truth to Power*, 200 (1996).

⁹⁵ See MANNING MARABLE, *Beyond Racial Identity Politics: Towards a Liberation Theory for Multicultural Democracy*, in CRITICAL RACE THEORY: THE CUTTING EDGE, *supra* note 14, 448, 448-454 ("The task of constructing a tradition of unity between various groups of color in America is a far more complex and contradictory process than any progressive activists or scholars have admitted, precisely because of divergent cultural traditions, languages and conflicting politics of racial identities . . .")

dominant culture, social institutions, and economic arrangements of our society. We must rethink and restructure the central social categories of collective struggle by which we conceive and understand our own political reality.⁹⁶

Only by first identifying white communities of solidarity and resistance — finding shared interests intraracially and examining their material underpinnings — will whites begin the effective work of moving toward multi-cultural coalition building. Martha Mahoney outlines several starting points for the transition from individual white consciousness to broader group dynamics. She suggests that within white communities, “[w]hen class is understood to refer to labor, to a set of shared interests in a system of production, shared interests immediately appear that have the potential to help whites understand the need for antiracist unity with people of color.”⁹⁷ Mahoney suggests that we whites translate our individual examination of white privilege into a discourse within our workplaces and residences that shows whiteness to be “historically located and subject to change.”⁹⁸ Mahoney believes such a focus would allow whites to find their shared interests with communities of color through labor solidarity and push whites to realize that whiteness has been used by elites to mask the fact that long-term economic trends in the United States have disfavored all working-class people.⁹⁹ Finally, Mahoney argues that it is necessary to expose programs largely viewed as race-neutral¹⁰⁰ as

⁹⁶ *Id.* at 452-53 (emphasis added).

⁹⁷ Martha R. Mahoney, *Shaping American Communities: Segregation, Housing & the Urban Poor: Segregation, Whiteness, and Transformation*, 143 U. PA. L. REV. 1659, 1681 (1995).

⁹⁸ *Id.* at 1682.

⁹⁹ *See id.*

¹⁰⁰ Mahoney writes: “In America, social and economic programs do not exist outside the process of the construction of race. Programs like public housing, Medicaid, welfare, and food stamps have become publicly “raced” and endowed with a racial character (marked as nonwhite) in white perception and in much political discourse despite the fact that whites are at least a plurality of the beneficiaries. Programs such as aid to farmers and bailouts for large corporations are officially treated as if they are ‘non-raced’ when in actuality they are “white-raced.” In the category of social programs covertly coded white, I would include Social Security, because as enacted it so thoroughly excluded so many African-Americans. The social construction of race is capable of overtaking nonracial programs, stigmatizing them as ‘assistance’

race-conscious so that white individuals begin class-conscious and race-conscious self-identity work in the challenging move toward coalitions.

Accordingly, each day on an individual level, I will aspire to face my life and career, realizing that my privilege is temporal — a product of socially constructed power relationships — and fighting against it. I will try to situate myself and my voice within the alienation I experienced that day in Ireland, and I will try to act as an organic intellectual, changing the institutions within which I work and live to prevent others and eventually myself from facing such alienation. To begin the intellectual process of emancipation from white privilege, it is necessary that I interact and try to organically inform others who share such privilege, pushing those around me to examine their material conditions as well as the benefits and inherent privilege their skin holds.¹⁰¹ Becky Thompson and White Women Challenging Racism remark:

Building alliances with white people is a key way to counter the isolation we have sometimes faced as white antiracist people. . . . Those white people who are

and treating them as ‘racial’ whenever any significant proportion of benefits is provided to people of color.” *Id.* at 1683.

¹⁰¹ I realize that this is perhaps the most difficult of the organic intellectual’s duties: returning to one’s own community, a community in which he or she may be disempowered as well. Enrique Carraso examines the struggles which the organic intellectual of color will face in returning to his or her community. While this analysis does not apply directly to me, a white intellectual, I believe the difficulties he highlights are emblematic of the gravity of the challenges we face in mobilizing our coalitions. “The . . . dilemma relates to the nature of our ties to the community. We should question the claim that we are steeped in the communities we seek to empower. We live in comfortable neighborhoods, sometimes far removed from the disempowered. We spend much of our time in secluded offices or libraries located in secluded universities. And when we are not in our offices, libraries, or neighborhoods, we are likely to be traveling to posh conference venues. Many of us have come to identify closely with the dominant and comfortable culture of academe. Surely there is a great gulf between us and the people we have targeted as beneficiaries of our activism.” *Intellectuals, Awkwardness, and Activism: Towards Social Justice Via Progressive Instability*, 2 HARV. LATINO L. REV. 317, 318 (1997).

trying to do justice work in isolated situations . . . end
up needing to imagine a community that will be both
supportive and hold us accountable.¹⁰²

¹⁰² Thompson, *supra* note 68, at 361.